

An act to amend Sections 4681.6, 4691.6, and 4691.9 of the Welfare and Institutions Code, relating to developmental disabilities.

SECURED
COPY

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 4681.6 of the Welfare and Institutions Code is amended to read:

4681.6. (a) Notwithstanding any other law or regulation, commencing July 1, 2008:

(1) A regional center shall not pay an existing residential service provider, for services where rates are determined through a negotiation between the regional center and the provider, a rate higher than the rate in effect on June 30, 2008, unless the increase is required by a contract between the regional center and the vendor that is in effect on June 30, 2008, or the regional center demonstrates that the approval is necessary to protect the consumer's health or safety and the department has granted prior written authorization.

(2) A regional center shall not negotiate a rate with a new residential service provider, for services where rates are determined through a negotiation between the regional center and the provider, that is higher than the regional center's median rate for the same service code and unit of service, or the statewide median rate for the same service code and unit of service, whichever is lower. The unit of service designation shall conform with an existing regional center designation or, if none exists, a designation used to calculate the statewide median rate for the same service. The regional center shall annually certify to the department its median rate for each negotiated rate service code, by designated unit of service. This certification shall be subject to verification through the department's biennial fiscal audit of the regional center.

(b) Notwithstanding subdivision (a), commencing ~~July 1, 2014,~~ January 1, 2017, regional centers may negotiate a rate adjustment with residential service providers regarding rates that are otherwise restricted pursuant to subdivision (a), if the adjustment is necessary in order to pay employees no less than the minimum wage as established by Section 1182.12 of the Labor Code, as amended by ~~Chapter 351 of the Statutes of 2013,~~ Chapter 4 of the Statutes of 2016, and only for the purpose of adjusting payroll costs associated with the minimum wage increase. The rate adjustment shall be specific to the unit of service designation that is affected by the increased minimum wage, shall be specific to payroll costs associated with any increase necessary to adjust employee pay only to the extent necessary to bring pay into compliance with the increased state minimum wage, and shall not be used as a general wage enhancement for employees paid above the minimum wage. Regional centers shall maintain documentation on the process to determine, and the rationale for granting, any rate adjustment associated with the minimum wage increase.

(c) Notwithstanding subdivision (a), commencing July 1, 2015, regional centers may negotiate a rate adjustment with residential service providers regarding rates that are otherwise restricted pursuant to subdivision (a), if the adjustment is necessary to implement Article 1.5 (commencing with Section 245) of Chapter 1 of Part 1 of Division 2 of the Labor Code, as added by Chapter 317 of the Statutes of 2014. The rate adjustment may be applied only if a minimum of 24 hours or three days of paid sick leave per year was not a benefit provided to employees as of June 30, 2015, and shall be specific to payroll costs associated with any increase necessary to compensate an

employee up to a maximum of 24 hours or three days of paid sick leave in each year of employment.

(d) For purposes of this section, “residential service provider” includes Adult Residential Facilities for Persons with Special Health Care Needs, as described in Section 4684.50.

(e) This section shall not apply to those services for which rates are determined by the State Department of Health Care Services, or the State Department of Developmental Services, or are usual and customary.

SEC. 2. Section 4691.6 of the Welfare and Institutions Code is amended to read:

4691.6. (a) Notwithstanding any other law or regulation, commencing July 1, 2006, the community-based day program, work activity program, and in-home respite service agency rate schedules authorized by the department and in operation June 30, 2006, shall be increased by 3 percent, subject to funds specifically appropriated for this increase in the Budget Act of 2006. The increase shall be applied as a percentage, and the percentage shall be the same for all providers. Any subsequent increase shall be governed by subdivisions (b), (c), (d), (e), (f), (g), (h), (i), and (j), and Section 4691.9.

(b) Notwithstanding any other law or regulation, the department shall not establish any permanent payment rate for a community-based day program or in-home respite service agency provider that has a temporary payment rate in effect on June 30, 2008, if the permanent payment rate would be greater than the temporary payment rate in effect on or after June 30, 2008, unless the regional center demonstrates to the

department that the permanent payment rate is necessary to protect the consumers' health or safety.

(c) Notwithstanding any other law or regulation, neither the department nor any regional center shall approve any program design modification or revendorization for a community-based day program or in-home respite service agency provider that would result in an increase in the rate to be paid to the vendor from the rate that is in effect on or after June 30, 2008, unless the regional center demonstrates that the program design modification or revendorization is necessary to protect the consumers' health or safety and the department has granted prior written authorization.

(d) Notwithstanding any other law or regulation, the department shall not approve an anticipated rate adjustment for a community-based day program or in-home respite service agency provider that would result in an increase in the rate to be paid to the vendor from the rate that is in effect on or after June 30, 2008, unless the regional center demonstrates that the anticipated rate adjustment is necessary to protect the consumers' health or safety.

(e) Notwithstanding any other law or regulation, except as set forth in subdivisions (f) and (i), the department shall not approve any rate adjustment for a work activity program that would result in an increase in the rate to be paid to the vendor from the rate that is in effect on or after June 30, 2008, unless the regional center demonstrates that the rate adjustment is necessary to protect the consumers' health and safety and the department has granted prior written authorization.

(f) Notwithstanding any other law or regulation, commencing ~~July 1, 2014,~~
January 1, 2017, the department may approve rate adjustments for a work activity

program that demonstrates to the department that the rate adjustment is necessary in order to pay employees who, prior to ~~July 1, 2014, January 1, 2017,~~ were being compensated at a wage that is less than the minimum wage established on and after ~~July 1, 2014, January 1, 2017,~~ by Section 1182.12 of the Labor Code, as amended by ~~Chapter 351 of the Statutes of 2013. Chapter 4 of the Statutes of 2016.~~ The rate adjustment pursuant to this subdivision shall be specific to payroll costs associated with any increase necessary to adjust employee pay only to the extent necessary to bring pay into compliance with the increased state minimum wage, and shall not constitute a general wage enhancement for employees paid above the increased minimum wage.

(g) Notwithstanding any other law or regulation, commencing ~~July 1, 2014, January 1, 2017,~~ community-based day program and in-home respite services agency providers with temporary payment rates set by the department may seek unanticipated rate adjustments from the department due to the impacts of the increased minimum wage as established by Section 1182.12 of the Labor Code, as amended by ~~Chapter 351 of the Statutes of 2013. Chapter 4 of the Statutes of 2016.~~ The rate adjustment shall be specific to payroll costs associated with any increase necessary to adjust employee pay only to the extent necessary to bring pay into compliance with the increased state minimum wage, and shall not constitute a general wage enhancement for employees paid above the increased minimum wage.

(h) Notwithstanding any other law or regulation, commencing January 1, 2015, the in-home respite service agency rate schedule authorized by the department and in operation December 31, 2014, shall be increased by 5.82 percent, subject to funds

specifically appropriated for this increase for costs due to changes in federal regulations implementing the federal Fair Labor Standards Act of 1938 (29 U.S.C. Sec. 201 et seq.). The increase shall be applied as a percentage, and the percentage shall be the same for all applicable providers.

(i) Notwithstanding any other law or regulation, commencing July 1, 2015, the department may approve rate adjustments for a work activity program that demonstrates to the department that the rate adjustment is necessary to implement Article 1.5 (commencing with Section 245) of Chapter 1 of Part 1 of Division 2 of the Labor Code, as added by Chapter 317 of the Statutes of 2014. The rate adjustment may be applied only if a minimum of 24 hours or three days of paid sick leave per year was not a benefit provided to employees as of June 30, 2015, and shall be specific to payroll costs associated with any increase necessary to compensate an employee up to a maximum of 24 hours or three days of paid sick leave in each year of employment.

(j) Notwithstanding any other law or regulation, commencing July 1, 2015, community-based day program and in-home respite services agency providers with temporary payment rates set by the department may seek unanticipated rate adjustments from the department if the adjustment is necessary to implement Article 1.5 (commencing with Section 245) of Chapter 1 of Part 1 of Division 2 of the Labor Code, as added by Chapter 317 of the Statutes of 2014. The rate adjustment may be applied only if a minimum of 24 hours or three days of paid sick leave per year was not a benefit provided to employees as of June 30, 2015, and shall be specific to payroll costs associated with any increase necessary to compensate an employee up to a maximum of 24 hours or three days of paid sick leave in each year of employment.

SEC. 3. Section 4691.9 of the Welfare and Institutions Code is amended to read:

4691.9. (a) Notwithstanding any other law or regulation, commencing July 1, 2008:

(1) A regional center shall not pay an existing service provider, for services where rates are determined through a negotiation between the regional center and the provider, a rate higher than the rate in effect on June 30, 2008, unless the increase is required by a contract between the regional center and the vendor that is in effect on June 30, 2008, or the regional center demonstrates that the approval is necessary to protect the consumer's health or safety and the department has granted prior written authorization.

(2) A regional center shall not negotiate a rate with a new service provider, for services where rates are determined through a negotiation between the regional center and the provider, that is higher than the regional center's median rate for the same service code and unit of service, or the statewide median rate for the same service code and unit of service, whichever is lower. The unit of service designation shall conform with an existing regional center designation or, if none exists, a designation used to calculate the statewide median rate for the same service. The regional center shall annually certify to the State Department of Developmental Services its median rate for each negotiated rate service code, by designated unit of service. This certification shall be subject to verification through the department's biennial fiscal audit of the regional center.

(b) Notwithstanding subdivision (a), commencing ~~July 1, 2014,~~ January 1, 2017, regional centers may negotiate a rate adjustment with providers regarding rates if the adjustment is necessary in order to pay employees no less than the minimum wage as established by Section 1182.12 of the Labor Code, as amended by ~~Chapter 351 of the Statutes of 2013,~~ Chapter 4 of the Statutes of 2016, and only for the purpose of adjusting payroll costs associated with the minimum wage increase. The rate adjustment shall be specific to the unit of service designation that is affected by the increased minimum wage, shall be specific to payroll costs associated with any increase necessary to adjust employee pay only to the extent necessary to bring pay into compliance with the increased state minimum wage, and shall not be used as a general wage enhancement for employees paid above the increased minimum wage. Regional centers shall maintain documentation on the process to determine, and the rationale for granting, any rate adjustment associated with the minimum wage increase.

(c) Notwithstanding any other law or regulation, commencing January 1, 2015, rates for personal assistance and supported living services in effect on December 31, 2014, shall be increased by 5.82 percent, subject to funds specifically appropriated for this increase for costs due to changes in federal regulations implementing the federal Fair Labor Standards Act of 1938 (29 U.S.C. Sec. 201 et seq.). The increase shall be applied as a percentage, and the percentage shall be the same for all applicable providers. As used in this subdivision, both of the following definitions shall apply:

(1) "Personal assistance" is limited only to those services provided by vendors classified by the regional center as personal assistance providers, pursuant to the

miscellaneous services provisions contained in Title 17 of the California Code of Regulations.

(2) “Supported living services” are limited only to those services defined as supported living services in Title 17 of the California Code of Regulations.

(d) Notwithstanding subdivision (a), commencing July 1, 2015, regional centers may negotiate a rate adjustment with existing service providers for services for which rates are determined through negotiation between the regional center and the provider, if the adjustment is necessary to implement Article 1.5 (commencing with Section 245) of Chapter 1 of Part 1 of Division 2 of the Labor Code, as added by Chapter 317 of the Statutes of 2014. The rate adjustment may be applied only if a minimum of 24 hours or three days of paid sick leave per year was not a benefit provided to employees as of June 30, 2015, and shall be specific to payroll costs associated with any increase necessary to compensate an employee up to a maximum of 24 hours or three days of paid sick leave in each year of employment.

(e) This section shall not apply to those services for which rates are determined by the State Department of Health Care Services, or the State Department of Developmental Services, or are usual and customary.

LEGISLATIVE COUNSEL'S DIGEST

Bill No.

as introduced, _____.

General Subject: Developmental disabilities: minimum wage.

Existing law requires the minimum wage for all industries, on and after January 1, 2016, to be not less than \$10 per hour. Existing law requires the minimum wage for all industries to be not less than specified amounts to be increased from January 1, 2017, to January 1, 2022, inclusive, for employers employing 26 or more employees and from January 1, 2018, to January 1, 2023, inclusive, for employers employing 25 or fewer employees, except as specified.

Under existing law, the Lanterman Developmental Disabilities Services Act, the State Department of Developmental Services is responsible for providing various services and supports to persons with developmental disabilities, and for ensuring the appropriateness and quality of those services and supports. Existing law authorizes the department to contract with regional centers to provide these services and supports. Existing law sets forth the department's and the regional center's authority to establish provider rates. Existing law prohibits certain provider rate increases, but, commencing July 1, 2014, authorizes increases to those rates as necessary to adjust employee wages to meet the state minimum wage law.

This bill would authorize adjustment of prescribed provider rates commencing January 1, 2017, if the adjustment is necessary in order to pay employees no less than the increased minimum wage, as described above.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

SECURED
COPY